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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
(U39-E) for Approval of Demand Response  
Programs, Pilots and Budgets for Program Years  
2018-2022.

Application 17-01-012

And Related Matters.

Application 17-01-018

Application 17-01-019

**SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) RESPONSE TO**  
**ADMINISTRATIVE LAW JUDGE'S RULING AUTHORIZING THE FILING OF**  
**PROPOSED IMPROVEMENTS TO THE DEMAND RESPONSE AUCTION**  
**MECHANISM**

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Dated: **January 11, 2019**

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MECHANISM**

On January 4, 2019, Administrative Law Judge (ALJ) Hymes issued a Ruling authorizing parties to file proposed improvements to the Demand Response Auction Mechanism (Ruling).<sup>1</sup> A subsequent procedural email from ALJ Hymes on January 7, 2019 clarified that parties were to file, no later than January 11, 2019, “a general description of the recommendation at this time” and further noted that those parties who file by the deadline, shall be given an opportunity to provide a five-minute presentation of the recommended improvements during the January 16, 2019 workshop. On January 11, 2019, ALJ Hymes issued another procedural email indicating her intent to “direct the Docket Office to reject any filing that contains commentary on the staff

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<sup>1</sup> See Administrative Law Judge’s Ruling Issuing Evaluation Report of the Demand Response Auction Mechanism Pilot, Noticing January 16, 2019 Workshop, and Denying Motion to Require Audit Reports in the Evaluation Report (ALJ Ruling), issued January 4, 2019, at p. 3.

evaluation or staff proposed improvements.” Southern California Edison Company (SCE) had prepared a filing to provide its initial position on Staff’s recommendations for proposed improvements but, given the latest guidance, has revised its submission to direct the Energy Division (ED or Staff) to those proposals SCE submitted in its August joint filing with PG&E.<sup>2</sup> SCE believes, however, that a response to the January 4, 2019 Ruling is warranted to raise an issue that has not been addressed yet, specifically a ruling on whether to include the results of SCE’s independent Audit report into the record.

## I.

### DISCUSSION

**A. In the absence of a Commission Ruling to make the results of SCE’s audit a part of this proceeding, it is unclear how parties to this proceeding can consider or comment with any vigor on the audit.**

SCE appreciates that the ALJ Ruling determined that the results of the two utility audits “will be considered during this proceeding.”<sup>3</sup> SCE is unclear, however, how parties to this proceeding will have an opportunity to review those results, comment with any vigor on those results, or engage in any substantive informed discussion with the utilities about those results, unless the Commission issues a ruling on SCE’s Motion<sup>4</sup> and directs the public release of those audit results in advance of the January 16, 2019 workshop, or subsequently noticed workshops in February.

Although SCE filed a Motion to submit the Audit results into this proceeding under seal pursuant to section 13.1 of the DRAM contract, it did so because it does not have the consent of the Seller that was the subject of the independent Audit to release those results. Comments provided in response to SCE’s Motion argued that the “Nexant Audit Report’s methodology,

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<sup>2</sup> See SCE and PG&E Joint Response to ALJ’s Ruling Directing Responses to Questions Regarding the DRAM Pilot, filed August 17, 2018.

<sup>3</sup> See ALJ Ruling, p. 4 “While we do not include the two utility audits as part of the Pilot Evaluation performed by staff, the results of the two audits will be considered during this proceeding.”

<sup>4</sup> See Motion of Southern California Edison to File Audit Report under Seal, filed December 6, 2018.

data sources and results have not been vetted by the parties to this proceeding”<sup>5</sup> and the Nexant Audit Report should be “used in a transparent fashion as one data point among many.”<sup>6</sup> Notably, CLECA filed comments in response to both utilities’ motions noting that “public release of both the Nexant Audit Report and the results of PG&E’s independent audit is warranted and that such release should occur prior to the January 16 workshops, so all parties may review the data and discuss the results at the workshop.”<sup>7</sup> Olivine also filed comments indicating its position that “[t]he independent audit reports should be part of the record and should help inform future, clearly necessary reforms to DRAM structure and contracts.”<sup>8</sup>

SCE supports a full, public release of the Nexant Audit Report. On December 21, 2018, SCE reached out to the Seller that was the subject of the audit and sought approval to make the results of the Nexant Audit Report public. Specifically, SCE explained that with the Seller’s approval, SCE would withdraw its Motion to file the Audit under Seal. To date, the Seller that was the subject of the Audit has not responded either in the affirmative or negative to SCE’s request to make the Audit results public.

SCE is awaiting a Commission ruling on its Motion to file the results of the Audit in this proceeding.

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<sup>5</sup> See Response of OhmConnect, Inc. to Motion of Southern California Edison Company (U 338-E) for Inclusion of Independent Audit Report in Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism, at p. 1, filed December 19, 2018.

<sup>6</sup> See Joint Response of Cpower, Enel X North America, Inc., and EnergyHub (“Joint DR Parties”) on Motion of Southern California Edison Company for Inclusion of Independent Audit Report in Energy Division’s Final Evaluation Report, at p. 3, filed December 21, 2018.

<sup>7</sup> See Response of California Large Energy Consumers Association Supporting the Motion of Southern California Edison Company for Inclusion of Independent Audit Response in Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism and the Motion of Pacific Gas and Electric Company for Inclusion of “PG&E Summary of 2018-2019 DRAM RFO Audit Analysis, Results as of December 4, 2018” in Energy Division’s Final Evaluation Report of the Demand Response Auction Mechanism, at pp. 3-4, filed December 21, 2018.

<sup>8</sup> See Response of Olivine, Inc. to Motion of SCE for Inclusion of Independent Audit Results in Energy Division’s Final Evaluation Report of the DRAM and the Motion of PG&E for Inclusion of “PG&E Summary of 2018-2019 DRAM RFO Audit Analysis, Results As of December 4, 2018” in Energy Division’s Final Evaluation Report of the DRAM, at p. 3, filed December 21, 2018.

**B. SCE proposes that any DRAM workshops or subsequent Energy Division recommendations must address how the Commission plans to hold third parties accountable for failing to procure supply resources that IOUs rely upon for Resource Adequacy.**

As stated in D.14-12-024, the purpose of the DRAM is to test: (a) the feasibility of procuring Supply Resources for Resource Adequacy (RA) with third party direct participation in the California Independent System Operation Corporation (CAISO) markets through an auction mechanism, and (b) the ability of winning bidders to integrate their provision of demand response (DR) into the CAISO market. The Energy Division should address, in connection with these market integration issues, whether DRAM Sellers have been complying with applicable CAISO tariffs.

Section 3.4 of the DRAM contract requires a Seller to cause each of the PDRs and RDRRs in its DRAM Resource to comply with the CAISO tariff, CPUC Decisions, and Applicable Laws. Among other things, the CAISO tariff defines both PDRs and RDRRs in terms of a resource capable of measurably and verifiably providing demand response services; section 40 of the CAISO tariff describes the requirements for a Scheduling Coordinator to supply sufficient RA and the associated penalties for its failure to do so. As an RA product, demand response is an essential resource that supports grid reliability, and both SCE and the CAISO must be able to depend on the Seller's ability to provide the contracted load reduction when called upon.

There is no question that compliance with Applicable Laws, as required by Section 3.4 of the DRAM contract, includes compliance with Federal Energy Regulatory Commission (FERC) market behavior rules when bidding the DRAM Resources into the CAISO markets. Accordingly, any Energy Division workshops and any future Staff recommendations must acknowledge this compliance obligation with the CAISO Tariff as part of the discussion of DR market integration. As noted in SCE and PG&E's August joint filing, SCE believes the performance standards, penalties and remedies should be reviewed in detail. SCE believes that

stronger performance standards (such as more rigorous testing and dispatch requirements), combined with stronger penalties, would help to facilitate accountability for performance.

**C. SCE Provides Additional Proposals for Improvements to the DRAM**

SCE makes the following brief proposals for additional improvements in addition to the proposals submitted in its August joint filing with PG&E:

- **SCE recommends a 3-year extension of the DRAM procurement mechanism.**

SCE proposes a solicitation for a three-year period, with three one-year contract terms (consistent with how DRAM has worked to this point), accompanied by a robust review process that provides opportunity and flexibility to make adjustments as needed.

In light of the issues identified in Staff's DRAM Report, the results of SCE's audit, and the fact that each DRAM has been an iterative process, any duration in excess of three years is not appropriate as it could preclude timely evaluation of the improvements that the Staff recognizes must be made. As seen in connection with the previous DRAM pilot, having a program with multiple planned solicitations means that RFOs follow each other in quick succession, with little time to pause, review effectiveness, and make adjustments.

Additionally, the most critical changes needed to the DRAM construct cannot be remedied through the DRAM procurement process. Resolving those issues will require longer-term efforts to amend CPUC RA rules and CAISO tariff sections, as well as more transparency/oversight of DRAM/DRP resource verification. To suggest locking in more than three years of DRAM solicitations with those foundational elements still lacking could result in repeat problems and imprudent use of customer funds.

- **SCE recommends discontinuation of the residential set-aside.**

SCE supports encouraging new residential market participants, but also believes that the residential set-aside results in inefficient bid selection and can skew evaluation results if several non-residential offers must be skipped in order to reach the required number of residential offers. While a reduced residential set-aside may partially alleviate the concern, a set-aside limited to

new market participants will introduce an even more restrictive element into the remaining residential set-aside, with the potential to skew results even further. Skipping multiple bids to pick up new market entrants could also send the wrong pricing signal to those parties, potentially leading to unpleasant surprises for any party that relies on that signal for its second round of participation in DRAM, when it is no longer considered ‘new.’ SCE believes that the residential set-aside should be eliminated.

- **SCE recommends that Demonstrated Capacity be invoiced based on dispatch results and going forward dispatches should be required on a quarterly basis.**
- **SCE recommends penalties for non-performance when Qualifying Capacity indicated on Supply Plans falls significantly below contracted capacity.**

SCE does not believe that such penalties should be explored in the Supply-Side Working Group (SSWG). The SSWG is established to resolve barriers to further integration of DR into the CAISO market. The question of whether penalties should be assessed for non-performance does not fall into this category, and it is unclear what benefit would be gained by adding this issue to the already long task list for the SSWG. Rather, this issue should be discussed in the DRAM workshops or a CAISO stakeholder process.

SCE suggests counterparties be given the option to bid capacity + energy in future solicitations, which would create the opportunity for sellers to receive performance incentives up to 105% commensurate with other demand response contract/program settlement arrangements. This type of Capacity payment band structure, similar to those previously implemented in the Aggregator Managed Program (AMP) and SCE's LCR RFO contracts, also dictates that underperformance results in a lower capacity price (\$/MW) paid to the Seller.

- **The IOUs should be allowed to procure DRAM resources as part of their regular RA solicitations, instead of the current stand-alone auction, and to evaluate and award offers based on the standard “Least Cost Best Fit” criteria.**
- **Demand Response Providers should be required to submit year-ahead Supply Plans in order to allow IOUs to utilize the RA capacity in their year ahead showings.**

## II.

### CONCLUSION

SCE appreciates the Commission's consideration of these matters and the opportunity to provide this response in advance of the January 16, 2019 workshop on ED's Final Evaluation of the DRAM.

Respectfully submitted,

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*/s/ Robin Z. Meidhof*

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